


ORIGINAL

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LANCE S. WILSON
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BY  DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEVADA

CHRISTINE BLYTHE,

Plaintiffs,

-vs-

AMERISTAR CASINOS, INC.,
a Nevada Corporation;
AMERISTAR CASINOS, INC., dba
CACTUS PETE'S RESORT CASINO; and
CACTUS PETE'S, INC., a Nevada
Corporation,

Defendants.

)
) **CASE NO. CV-N-01-0466-ECR-VPC**
)
)
) **SUPPLEMENTAL AFFIDAVIT OF**
) **FRED DEL MARVA, PI, PPO. IN**
) **SUPPORT OF PLAINTIFF'S**
) **OBJECTION TO DEFENDANTS'**
) **MOTION FOR SUMMARY**
) **JUDGMENT, PURSUANT TO**
) **FEDERAL RULE OF CIVIL**
) **PROCEDURE 56(e)**
)

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STATE OF CALIFORNIA)
)ss.
COUNTY OF MARIN_____)

FRED DEL MARVA, being first duly sworn upon oath deposes and says:

1. I am an expert witness in the above-entitled matter and make this affidavit of upon my own personal knowledge and belief.

2. I am a court-qualified expert specializing in cases of overall industry standards compliance in the lodging and the food service industries.

3. I have been in the hospitality industry for forty-five (45) years as an employee, manager, industry consultant and liability consultant and liability expert.

4. In reviewing the information provided to me, including the Complaint and Demand for Jury Trial, Defendants' Answers to Plaintiff's Complaint, medical records from Mike Maier, M.D., medical records from Mark Snow, Ph.D, medical records from Randall Burr, M.D., medical records from Grant Belnapp, Defendants' Answers to Plaintiff's First Set of Interrogatories, Defendants' Responses to Plaintiff's First Request for Production of Documents, Defendant's Answers to Plaintiff's Second Set of Interrogatories, Defendants' Answers to Plaintiff's Request for Production of Documents, correspondence from Eric Easterly of May 7, 2000, Deposition transcript of Christine Blythe, Deposition transcript of Tom Blythe, and Deposition transcript of Carl Pittman, I rendered an expert witness report.

5. On May 10, 2002, I wrote an expert witness report which contained the following information regarding Cactus Pete's Hotel and Casino.

6. Within the documents I have reviewed, there are the "Quality Assurance Inspections" conducted by a company named Richey International. Parts of these Q&A inspections were used as a basis for some of my opinions.

7. It is my opinion that the only way she could have contacted pubic lice was the following:

- A. Unsanitary and dirty commode;
- B. Bed sheets used by the hotel guest who stayed in the room the night before;
- C. Towels used by the hotel guest who stayed in the room the night before; and/or
- D. Unhygienic bed cover or blanket used by the guest who occupied the room the night before.

8. In reviewing Richey International's Q&A inspections, I have seen numerous negative comments regarding the cleaning of guest rooms, especially the condition of the commodes in the guest rooms and in the public areas, the failure to change bed sheets, the failure to replace bathroom towels and the failure to remove soiled bed covers.

9. Based on the Q&A inspections, it becomes obvious that the head housekeeper and/or his supervisors are not checking all rooms to ensure their staff is in compliance with room cleaning policies which substantiates the probability of contacting pubic lice.

10. Based on the above Q&A inspections, this hotel policy of checking that rooms are cleaned is not always complied with or adhered to leaving a strong probability that the rooms are not thoroughly sanitized after the previous guests have checked out.

11. Cactus Petes only changes its blankets every two weeks. The Q&A inspection noted a dirty and/or stained blanket that was left on the bed.

12. Cactus Petes' policy is to change sheets daily. However, from my investigation, it has been noted that this is not the case.

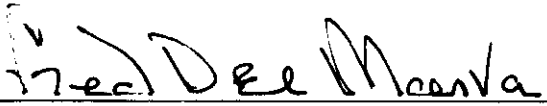
13. Cactus Petes' policy is to remove towels daily, even if not used. This too contradicts the observations made in a Q&A inspection where makeup was found on a towel.

14. On the night of the incident, at the defendant's premises, there existed indisputable circumstances which created a reasonably foreseeable risk and that such risk, would have been reasonably anticipated by responsible, prudent, and professional operators, and their staff. And, that the foreseeability was sufficient enough to impose a duty to closely monitor and supervise the cleaning of the bathrooms, replacement of bed sheets, replacement of towels, and the replacement of blankets.

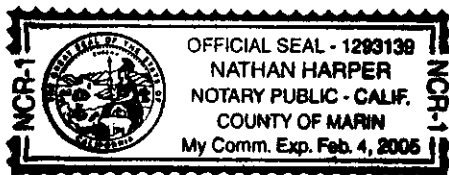
15. It is my opinion that the reckless and irresponsible conduct of the defendant was the major factor in causing the injuries sustained by the plaintiff.

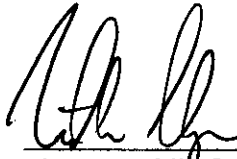
FURTHER, YOUR AFFIANT SAYETH NAUGHT.

DATED This ____ day of August, 2002.


Fred Del Marva, PI, PPO

SUBSCRIBED AND SWORN to before me this 29 day of August, 2002.




Notary Public for ~~Arizona~~ CALIFORNIA
Residing: NOVA 76
My Commission Expires: FEB. 4, 2005

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a true and correct copy of the foregoing SUPPLEMENTAL AFFIDAVIT OF FRED DEL MARVA, PI, PPO was served upon the following:

Eric G. Easterly
WRONA, FITLOW, KOZAK & EASTERLY
Post Office Box 683670
Park City, UT 84060

☒ Mailed
☐ Faxed
☐ Hand delivered

this 4 day of September, 2002.


for WHITE PETERSON

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